S.B. CIVIL SECOND APPEAL NO.324/2005

Ramu @ Ram Chandra vs. Rajendra Talkees.

Date : 8.9.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. RK Bohra, for the appellant.

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Heard learned counsel for the appellant.

The only argument advanced by learned counsel for the appellant is that the appellant/defendant/tenant took the premises on rent from Bhanwar Lal, who was sole proprietor of M/s. Rajendra Talkees. The appellant paid the rent to the sole proprietorship firm – Rajendra Talkees, therefore, the appellant was the tenant of Bhanwar Lal. It is also submitted that before or after change in constitution of the firm, no notice was given by said Bhanwar Lal or M/s. Rajendra Talkees to the appellant.

Learned counsel for the appellant further submits that the firm itself was registered in the year 1979 as certificate was issued in the year 1979. However, according to learned counsel for the appellant, the application for registration of the firm was submitted before the concerned authority on 20.10.1976. In view of the above, when the partnership firm itself came into existence in the year 1976, then the partnership firm could not have let out the premises to the appellant in the year 1975. It is also

submitted that it is an admitted case of the appellant that the appellant is tenant in the suit premises before 1975. In view of the above facts, the court below committed serious error of law in decreeing the suit of the plaintiff on the ground of denial of title by the appellant and character of appellant as tenant of the plaintiff.

I have considered the submission of learned counsel for the appellant and in view of the fact which has been stated by learned counsel for the appellant as that was the case of the appellant, I do not find any merit in the appeal because of the simple reason that admittedly, the suit property was let out by Rajendra Talkees – sole proprietorship firm to the appellant and he started to pay rent to the said firm. The sole proprietorship firm was converted into partnership firm and the suit was filed by the said partnership which is a registered partnership firm. The appellant was tenant of the firm be it sole proprietorship or be it partnership firm. Therefore, because of change in constitution of the firm, it cannot entitle the appellant to question the relationship of landlord and tenant.

In view of the above, I do not find any merit in this appeal and the same is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya